

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

<p>TAP ELECTRICAL CONTRACTING SERVICES, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>E.E. CRUZ &amp; CO., INC.,</p> <p style="text-align: center;">Defendant.</p>	<p>X</p> <p>:</p>
	<p>Civil Case No.: 07-CV-7770 (GD)</p> <p><b>REPLY TO CROSS-CLAIM OF SECOND THIRD-PARTY DEFENDANT WINSTON SMITH, P.E., P.C.</b></p>
<p>E.E. CRUZ &amp; CO., INC.,</p> <p style="text-align: center;">Third-Party Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>URS CORPORATION (f/k/a URS Consultants, Inca. and/or URS Corporation Group Consultants) and MALCOLM PIRNIE, INC.,</p> <p style="text-align: center;">Third-Party Defendants.</p>	<p>:</p>
<p>URS CORPORATION – NEW YORK,</p> <p style="text-align: center;">Second-Third Party Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>WINSTON SMITH, P.E., P.C.,</p> <p style="text-align: center;">Second-Third Party Defendants.</p>	<p>X</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>

Defendant E.E. Cruz & Company Inc. ("E.E. CRUZ") by its attorneys, Lewis Brisbois Bisgaard & Smith, LLP, as and for its Answer to the cross-claim asserted by second third-party defendant Winston Smith, P.E., P.C., contained in its Answer to the Second Third-party Complaint, dated February 19, 2008, as against E.E CRUZ, alleges upon information and belief as follows:

1. Denies each and every allegation contained in the cross-claims asserted against E.E. CRUZ as set forth in paragraphs "48" to "53" of Winston Smith, P.E., P.C.'s Answer to the Second Verified Third-party Complaint and respectfully refers all questions of law to this Honorable Court for its determination. Answering further, E.E. Cruz repeats and reiterates each and every denial and each and every affirmative defense asserted in its Answer to the underlying Plaintiff's Verified Amended Complaint.

**AS AND FOR A CROSS CLAIM AGAINST SECOND THIRD-PARTY DEFENDANT  
WINSTON SMITH, P.E., P.C.**

The negligence and/or culpable conduct of the second third-party defendant Winston Smith, P.E., P.C., contributed in whole or in part to plaintiff's/Third-Party Plaintiffs injuries and/or damages as alleged in Plaintiff's and/or Third-Party Plaintiff's Complaint. If the plaintiff and/or third-party plaintiff sustained any injuries and/or damages as alleged in the third-party complaint by reason of fault other than its own and judgment is rendered against this answering defendant by reason of such, then upon the theory of apportionment of responsibility and common-law indemnification, second third-party defendant Winston Smith will be liable over to and required to indemnify this answering defendant for all or part of said judgment.

**WHEREFORE**, the answering Defendant E.E. CRUZ & CO., INC., demands judgment dismissing the cross-claims asserted by Second third-party defendant Winston Smith, P.E., P.C. in

its entirety, together with costs, disbursements and counsel fees incurred in the defense of this action and such other and further and different relief as this Court may deem just and proper.

Dated: New York, New York  
March 5, 2008

Yours, etc.

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

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